

## **ROLE OF CONSUMER REDRESSAL AGENCIES IN PROMOTING CONSUMER WELFARE**

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### **ABSTRACT**

Consumers are considered as one of the most important resources of the economy. They play a vital role in the economic system of the nation because in the absence of effective demand the economy will collapse. Mahatma Gandhi said, "A consumer is the most important visitor of our premises. He is not dependent on us, we are dependent on him. He is not an interruption in our work. He is the purpose of it. We are not doing him a favour by giving us opportunity to serve him in many offices and shops.

**KEYWORDS:** Promoting Consumer Welfare, Resources of the Economy, Interest of its Citizens

### **INTRODUCTIONS**

A Welfare State preserves the interest of its citizens. This protective role of the State depends upon the social activity it is protecting. The criminal proclivity is eliminated by punishing the offender through the penal law of the country. Similarly, the civil breaches and distortions are taken care of by various civil laws including imposition of liability under the law of torts. However, we need to tackle the issues associated with consumers with a different perspective and framework. The Department of Consumer Affairs under the Ministry of Consumer Affairs, Food and Public Distribution is responsible for this task.

### **Objective of the Study**

- To analyse the objective of forming the three tier quasi judicial consumer disputes redressal machinery.
- To analyse the role of three tier quasi judicial consumer disputes redressal machinery.
- To examine the loopholes in the functioning of the machinery.
- To recommend suggestion for their effective working.

### **Research Methodology**

The study is theoretical in nature and the required material for the study is collected through secondary sources like books, journal magazines, reports and newspapers.

The Indian Parliament enacted the Consumer Protection Act (CPA) 1986. All provisions of the Act came into force from 15.4.1987 throughout the country except in the State of Jammu and Kashmir, The State of Jammu and Kashmir has enacted its own legislation on this filed.

The CPA, 1986 is a milestone in the history of socio-economic legislation in the country. It is one of the most progressive, comprehensive and unique pieces of legislation enacted for settlement of consumer disputes. The CPA,

1986 has set up three tier quasi judicial consumer disputes redressal machinery at the National, State and District levels for expeditious and inexpensive settlement of consumer disputes. It is an alternative to the ordinary process of instituting actions before the civil courts. The establishment of consumer courts is one of the benevolent pieces of legislation intended to protect the consumer at large from exploitation.

### **Objectives of the Three Tier Quasi Judicial Consumer Disputes Redressal Machinery**

- To empower consumers by making them aware about their rights and responsibilities. To provide effective, inexpensive and speedy redressal system to Consumers.
- To strengthen the infrastructure on Consumer Fora through computerization and computer networking across the country.
- To augment the infrastructure of enforcement machinery of Legal Metrology Department of States/UTs and implementation of The Legal Metrology Act, 2009
- To assist Consumers by giving advice and guidance in Consumer related issues through National Consumer Helpline and State Consumer Helplines functioning in States/UTs across the country.
- To create avenues for Consumers for settlement of Consumer related cases through Mediation process involving Voluntary Organisations and settlement of grievances.
- To dispose all Grievances and Complaints through a well established Grievances Redressal Mechanism

### **THREE TIER QUASI JUDICIAL CONSUMER DISPUTES REDRESSAL MACHINERY IS AS FOLLOWS**

#### **District Consumer Disputes Redressal Forums (DCDRF)**

It is created by the State Government and it is headed by a person who is or has been or is eligible to be appointed as district judge and had the District Collector and all the Mps and MLAs and officials of all Government Department having consumer interface of the concerned district as members.

#### **Composition of the District Forum**

- A person who is, or has been, or is qualified to be District Judge shall be its president
- Two members, one of which shall be a women, who have the following qualifications:
  - Be not less than 35 years of age,
  - Possess a bachelor's degree from a recognized University
  - Be person of ability, integrity and standing and have adequate knowledge and experience of at least 10years dealing with problems relating to economics, law, commerce, accountancy, industry, public affairs or administration.

Every appointed shall be made by the State Government on the recommendation of the selection committee which will consist of the following members:

- Chairman will be the president of the State Commission

- Secretary- Law department of the State- member
- Secretary in charge of the department dealing with consumer affairs in the State-Member

### Disqualification

A person shall be disqualified for appointment as a member if he:

- Has been convicted or sentenced for an offence which in the opinion of the State Government involves moral turpitude or
- Am undischarged insolvent or
- Is of sound mind and stands so declared by a competent court or
- Has been removed or dismissed from the service of government Or a corporate body owned or controlled by the Government or
- Has in the opinion of the State government, such financial or other interest as is likely to affect prejudicially the discharge by him of the functions as member or
- Have such other disqualification as may be prescribed by the state government.

Every member of the district forum shall hold office for a period of 5 years or up to age of 65 years whichever is earlier.

An aggrieved party i.e., a consumer or any recognised consumer association listed under the Companies Act 1956, or under any other law for the period in force, one or groups of consumers such as consumer forum with the same interest, or the Central Government or the State Government, as the case may be, either in its individual capacity or as a representative of interests of consumers in general, can file a complaint with it, if the compensation sought is less than 20 lakhs. The court can hear cases for companies that either operates an office or branch within the district's limits, or the grievance occurred, either partially, or fully, within the district. The law provides that the DCDRF has the same powers as the Civil Court under the Code of Civil Procedure 1908.

- Once the District Consumer Forum decides in favour of the consumer, it can ask to
- Rectify the deficiency in the product to what is claimed.
- Repair any defect free of cost.
- Provide similar or superior product in place of the existing product.
- Refund the amount paid in full.
- Recompose for any damage/ costs/ inconvenience.
- Stop the sale of product in the market altogether.
- Either discontinue or not to repeat any unfair or restrictive practices.
- Issue corrective advertisements in pace of earlier misrepresentation.

### **State Consumer Disputes Redressal Commission (SCDRC)**

If the individual is not satisfied with the verdict of the District Forum, then, within a period of 30 days, the aggrieved party can approach the SCDRC. If a verdict has been given against the company, it can appeal only after depositing 50% of the compensation to be paid to the consumer or Rs.25, 000 whichever is lesser. It is presided by a person who is or has been a High Court Judge.

The composition of members, the criteria for disqualification and tenure of the SCDRC remains the same as the District Consumer Forum except that more than 50% of the members shall be amongst persons having a judicial background .i.e. having knowledge and experience for at least a period of ten years as a presiding officer at the district level court or any tribunal or equivalent level. The SCDRC deals with complaints where the compensation sought is between Rs. 20 lakhs and Rs.1 crore. The court can hear cases for companies that either operates an office or branch within the district's limits, or the grievance occurred, either partially, or fully, within the State. The SCDRC usually hears cases of three types:

- Appeals from District Consumer Forum.
- Cases against companies that operates either an office/ or a branch within the State.
- Cases where the actual reason for filing the complaint occurred within the State, either Spatially or fully.

### **National Consumer Disputes Redressal Commission (NCDRC)**

If the individual is not satisfied with the verdict of the SCDRC, then, within a period of 30 days, the aggrieved party can approach the NCDRC. If a verdict has been given against the company, it can appeal only after depositing 50% of the compensation to be paid to the consumer or Rs.35, 000 whichever is lesser. It was constituted in the year 1988. It functions in Delhi, and is head by a person who is or has been a Supreme Court Judge appointed by the Central Government. The appointment has to be made after consultation with the Chief Justice of India. The NCDRC has a minimum of 4 members and is appointed by a committee chaired by a Supreme Court Judge as recommended by the Chief Justice of India. The tenure of the members is for a period of 5 years or up to the age of 75 years whichever is earlier. The NCDRC deals with complaints where the compensation sought is above Rs.1 crore.

It handles five types of cases:

- Complaint that have either been sought or that need to be shifted from one State Consumer Court to another in the interest of justice.
- Appeals made from the State Consumer Court.
- Complaints that occurred anywhere in India except in the State of Jammu and Kashmir.
- SCDRC cases where there have been allegations or proof of material irregularities or any other illegal activities.
- Cases where verdicts have been passed in absence of either party (ex-parte order) have to be set aside.

In order to help achieve the objects of Consumer Protection Act, 1986 the National Commission has also been conferred with the powers of administrative control over all the State Commissions by calling for periodical returns regarding the institution, disposal and pending cases. The National commission is empowered to issue instructions

regarding:

- Adoption of uniform procedure in the hearing of matters.
- Prior service of copies of documents produced by one party to the opposite parties
- Generally overseeing the functioning of the State Commissions and District Forums to ensure that the objects and purposes of the Act are best served without interfering with their quasi-judiciary freedom.

A consumer cannot file a complaint in a Consumer court if 2 years have elapsed after the cause of action.

If the aggrieved party is not satisfied by the verdict of NCDRC they can approach the Supreme Court within a period of 30 days. If a verdict has been given against the company, it can appeal only after depositing 50% of the compensation to be paid to the consumer or Rs.50, 000 whichever is lesser.

### Penalties

A trader or a person against whom a complaint is made or the complainant fails or omits to comply with any order made by the District Forum, SCDRC or the NCDRC, as the case may be; such trader or person or complainant shall be punishable with imprisonment for a term which shall not be less than one month but which may extend to three years or with fine which shall not be less than two thousand rupees but which may extend to ten thousand rupees, or with both.

**Table 1: Fee Structure Payable for Filing Complaint in Consumer Dispute Redressal Commission/ Fora**

Sr.No.	Value of Goods and Compensation	Amount Payable
01	Up to Rs.10,000	Nil
02	Up to Rs. 1 lakh for complaints who are under the BPL holding Anna Yojana Card	Nil
03	Less than a lakh	Rs.100
04	Rs. 1 lakh and above but less than Rs.5 lakhs	Rs.500
05	Rs. 5 lakhs and above but less than Rs.10 lakhs	Rs.1000
06	Rs. 10 lakhs and above but less than Rs.20 lakhs	Rs.2000
07	Rs. 20 lakhs and above but less than Rs.50 lakhs	Rs.5000
08	Rs. 50 lakhs and above but less than Rs.1 crore	Rs.10000
09	Above Rs. 1 crore	Rs.25000
10	Above Rs.5 crore	Rs.50000
11	Above Rs.10 crore	Rs.100000

**Source:** Office of NCDRC, New Delhi.

The above amount is to be deposited at the time of filling the complaint. The payment should be through a Nationalised Bank draft duly crossed, drawn in favour of "President of District Forum/ Registrar of State Commission or Registrar of National Commission as the case may be and payable at the respective place where the District Forum/ State Commission/ National Commission is situated. No fee is payable for making appeal before State or National Consumer Dispute Redressal Commission against the orders of lower fora. At present there are 657 redressal agencies that include 1 NCDRC, 35 SCDRCs and 621 District Fora. Out of 621 District Fora 555 are functional.

**Table 2: Total Number of Consumer Complaints Filed/ Disposed Since Inception Under the CPA, 1986 up to 19-02-2010**

Name of Agency	Cases Filed Since Inception	Cases Disposed Since Inception	Cases Pending	% of Total Disposal
NCDRC	62320	54654	7666	87.70%
SCDRC	493366	384089	109277	77.85%
DCDRF	2781021	2526285	254736	90.80%
Total	3336707	2965028	371679	88.80%

**Source:** Report of National Consumer Dispute Redressal Commission 2009-10.

### Limitations

The establishment of consumer courts in India has been internationally praised but the scenario is not very encouraging. The consumer courts have become a replica of legal courts, as the procedure is no longer simple and quick. The consumer redressal process is really cumbersome, more expensive and time consuming than desired.

The process involves engaging professional personnel, requires time for filing the case and attending the court proceedings and certain other formalities like producing bill, warranty cards etc. These procedures need to be made more simple and quicker for making the process more meaningful and realistic.

The law states that the consumer courts have the authority similar to that of a Judicial Magistrate of the first class in attaching properties and arresting person in case any of its verdicts are violated or not adhered. But in practice, the law and the consumer court suffer from the following drawbacks. Generally companies do not pay heed to the orders of consumer court. Their reports, order, summons are very commonly ignored. As a result, most of the consumer cases drag on unnecessarily without any outcome. Many times companies do not adhere to the verdict. Consequently, once the verdict comes, proceedings to execute the verdict take even more time of the complainant.

Consumer courts are not known to be devoid of corruption, like any other courts in our country. Moreover, Consumer courts are understaffed and unfunded. In many State Commissions and District Forum vacancies of Presidents/ members have not been filled up which adversely affects the disposal cases. The Government paints very rosy statistics that 87.51% of the cases of NCDRC, 78.98% of the cases of SCDRCs and 91.23% of cases in DCDRF were disposed until September 6, 2010. However, 8223 cases are still pending in National Commission, 1, 08,384 in State Commission and 2, 52,149 in District Forums. Statistically it would take many years to dispose all the pending cases. It does not tell how long it takes to dispose a case or how many cases are disposed in favour of the consumer.

According to Supreme Court there are 35 crore pending cases in the Indian Courts today. Statistically it could take 300 to 500 years to dispose of the cases pending. Due to heavy burden of pending cases, the court grants a minimum of three months adjournment. Respondents also do not take the summons of consumer courts seriously. Hence, the courts have to give a reasonable opportunity of two-three dates to the opponent to appear and file version of the case, or give an ex-parte decision.

Until now, there is no strict procedure for filing complaint. A simple letter containing details of the grievances are treated as a complaint in front of the consumer court. In fact, the consumer is required to give a brief about the grievances which include important clauses limitation and jurisdiction. Therefore, a common man is compelled to appear through advocate leading to wastage of time, money and energy. Moreover, it has been observed that additional staff from the Food and Drug Adulteration departments is moved to the consumer courts and they are not well versed with the

consumer redressal procedure resulting in delays in getting the cases cleared.

### General Suggestions

Government and other consumer activist agencies should make additional efforts in the direction of propaganda and publicity of District Forums, State and National Judiciary established for consumer protection in order to increase consumer awareness about the machinery for their greater involvement and to seek justice in case of grievances.

Government should use electronic and print media for spreading awareness of consumer rights with special focus on rural areas. The location of redressal agency with their names and contact numbers and required registration fees should be prominently displayed in important public places.

Redress procedure should be made more logical, easy enough to be understood by large number of consumers. Further procedures should be so designed as to have easy handling and quick disposal of cases. Just as the high courts incur the cost of sending notices to the plaintiff, the cost must be borne by the consumer courts where the complainants have to pay for the notices sent by the court to the respondent, which comes to Rs. 3,000 to Rs.4, 000 for a complaint. Posts which are lying vacant in the consumer courts should be filled as early as possible to clear the backlog of pending cases. Government should provide adequate funds for strengthening the infrastructure of the consumer courts. Newly created District Forums should be made functional immediately. An officer of the level of Tahsildar should be designated in each district and made responsible for execution of decree cases referred by the consumer forums. All consumer forums in the state should be connected via internet and all cases, notings and orders are to be updated. As stated by Justice S. B. Mhase, President Maharashtra State Consumer Redressal Dispute Commission Maharashtra State has been a pioneer in this regard which it introduced on the eve of World Consumer Rights Day in the year 2011, which has to be followed by other States as well.

### CONCLUSIONS

Legislations are essential to regulate trade practices as well as to protect consumers from the dishonesty of business. But legislations alone are not a panacea for eradicating completely this mammoth of problem of exploitation of consumers in the hands of traders and producers. Organized effort is needed from the consumer to curb this menace.

In the context of legal framework, an effective consumer protection regime is a mid distant dream which could be realized when all the stakeholders are sensitized on the roles they are expected to play. A consumer protection regime does not merely consist of laws and legislations; it is rather a constant interaction between the laws, acts, courts, business, Government, regulators, media, civil society organizations and most importantly consumers.

To strengthen the overall system, each and every stakeholder is required to be possessed with adequate power in the form of well-defined and an efficient legal system as well as information.

It is a collective consciousness on the part of consumers, business, Government and civil society to enhance consumers' satisfaction and social welfare which will in turn benefit all of them and finally make the society a better place to live in,

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